2026 IL App (2d) 260018-U
No. 2-26-0018
Order filed August 26, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THOMAS J. SMITH, Plaintiff and Counterdefendant-Appellee,

v.

PRECISION LAND SERVICES, INC., and MARK W. SMITH, Defendants and Counterplaintiffs-Appellants.

Appeal from the Circuit Court of De Kalb County.
Honorable Stephanie P. Klein, Presiding.
No. 23-CH-21

JUSTICE McLAREN delivered the judgment of the court.
Presiding Justice Kennedy and Justice Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held*: Personal financial records of corporation's majority shareholder could be ordered only as pertaining to the period after he removed minority shareholder, who thereafter allegedly refused to disclose corporation's account and login information, requiring both corporation and majority shareholder to spend funds to establish new infrastructure. Vacated and remanded.

¶ 2 This appeal stems from a finding of contempt entered against defendants and counterplaintiffs, Precision Land Services, Inc. (PLS) and Mark W. Smith, for failing to comply with an order compelling the production of certain documents requested by plaintiff and counterdefendant, Thomas J. Smith. As explained below, we conclude that the trial court erred in compelling production of certain documents pertaining to periods when Thomas served as an

officer of PLS. We therefore vacate the finding of contempt and clarify the documents that may be ordered produced on remand.

¶ 3 I. BACKGROUND

¶ 4 On August 16, 2023, Thomas filed a single-count complaint against PLS and Mark, seeking an accounting and removal of Mark as an officer and director of PLS, a subchapter S corporation. Thomas alleged that he had owned 49% of PLS's common stock since March 2004. Mark owned the remaining shares. On and before October 15, 2021, Thomas was PLS's vice president, secretary, and treasurer, and Mark was PLS's president and sole director. On July 20, 2020, PLS entered into a written subcontractor agreement with Universal Pool Company, Inc., doing business as The Great Escape (TGE), to provide services to TGE's customers. In September of that year, Mark incorporated Precision Contractors, Inc. (PCI), which used PLS's equipment to provide services to TGE customers. According to the complaint, the services that PCI provided were within the scope of the services that PLS provided under its agreement with TGE. As payment, PCI received checks payable to PLS. Mark deposited those checks in bank accounts held by PLS.

¶ 5 According to the complaint, before October 15, 2021, a dispute arose between Thomas and Mark over Mark's conduct in the operation of PLS. On October 15, 2021, Mark, "purporting to act in his capacity as the sole director of *** PLS," terminated Thomas's "employment" as vice president, treasurer, and secretary of PLS. Thereafter, PLS and Mark paid no salary or dividends to Thomas. However, PLS "continued to employ *** [Mark], as [p]resident, [v]ice-[p]resident, [s]ecretary, and [t]reasurer *** and[,] from time to time, paid him salary, wages, or personal expenses in lieu of salary or wages." Thomas alleged that Mark's conduct was "oppressive [and] fraudulent[ ] and unlawfully violate[d] his duty of loyalty, all to the prejudice of *** [Thomas] as

a minority shareholder of *** PLS." Further, Mark's and PLS's conduct "constitute[d] misapplication or waste of *** PLS'[s] corporate assets."

¶ 6 PLS and Mark answered the complaint and filed a countercomplaint. As amended, the countercomplaint alleged that Mark incorporated PLS in 2000 and operated it as a landscaping and snow removal business. Mark was president and sole director of PLS. In 2004, Thomas became a minority shareholder and assumed the offices of vice president, treasurer, and secretary. Mark held the majority interest in PLS. In his roles, Thomas managed PLS's finances and controlled its bank accounts and business credit cards. Mark alleged that Thomas hid or withheld information about PLS's finances while reassuring Mark that PLS's financial affairs were in order. Mark alleged that Thomas wrote numerous checks to himself or to " '[c]ash,' " claiming that they were for legitimate business expenses. However, according to the countercomplaint, the checks were to pay Thomas's personal expenses or were otherwise for his personal benefit. Mark further alleged that Thomas used business credit cards for various personal expenses without reimbursing PLS.

¶ 7 According to the countercomplaint, on October 15, 2021, after discovering irregularities in PLS's finances and Thomas's misappropriation of PLS's funds, Mark removed Thomas from the positions of vice president, treasurer, and secretary. Mark alleged:

> "[Thomas's] deception, fraud and misappropriation of PLS's business credit cards and funds for his own personal economic gain occurred from approximately 2018 through 2021, and may still be occurring as [Thomas] continues to conceal statements for PLS's business credit cards and refuses to provide access to such accounts to *** PLS and [Mark.]"

¶ 8 The countercomplaint further alleged that, after his removal, Thomas "[r]efuse[d] to disclose vital business account and login information *** needed to login [*sic*] and access PLS's business network and email server, where PLS stored business contacts, emails and customer information." Because of Thomas's refusal, "PLS *and MARK* were required to spend time, effort[,] *and money* on purchasing a new business network and email server, setting up new business emails and rebuild[ing] its database of contacts, customer lists and business information." (Emphasis added.) In addition, the countercomplaint alleged that Thomas forged Mark's signature on the agreement with TGE. PLS and Mark alleged that, "[d]ue to their reliance on [Thomas] as [v]ice [p]resident, [t]reasurer[,] and [s]ecretary of PLS, [PLS and Mark] have lost significant sums of money and incurred costs and attorney's [*sic*] fees."

¶ 9 The countercomplaint raised claims based on the theories of fraud, "fraudulent forgery," breach of fiduciary duty, tortious interference with business expectations, and unjust enrichment. The countercomplaint also sought division of PLS's assets. Alternatively, the countercomplaint sought judicial dissolution of PLS.

¶ 10 On March 19, 2025, Thomas filed a motion to compel PLS and Mark to comply with Thomas's request to produce documents under Illinois Supreme Court Rule 214 (eff. July 1, 2018). Of relevance to this appeal, Thomas sought to compel production of documents specified in the following requests:

> "15. All account statements for any checking account, savings account, money market, or other deposit account, of which [Mark] is a legal or equitable owner, from January 1, 2018, to the present.

16. All account statements for any credit card or line of credit account, of which [Mark], is an account holder, borrower, or legal or equitable owner, from January 1, 2018, to the present.

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18. All of [Mark's] federal and state income tax returns for tax years 2020 to the present, and all forms 1099, K-1, or W-2 issued to [Mark] for or relating to tax years 2020 to the present."

¶ 11 In his written response to the motion to compel, PLS and Mark argued that request Nos. 15, 16, and 18 were vague, ambiguous, overbroad, and not likely to lead to the discovery of admissible evidence. PLS and Mark also argued that those requests were unduly burdensome and an invasion of his privacy (and, as to request Nos. 15 and 16, his wife's privacy as well). In his reply, Thomas cited *Central National Bank in Chicago v. Baime*, 112 Ill. App. 3d 664, 669-70 (1982), arguing that "[w]here a question of a party's income is at issue (including but not limited to payment from or losses occasioned by a business operation), that party's tax returns are relevant and discoverable." Thomas contended that PLS and Mark "put [Mark's] income at issue in this case" by alleging that, "[d]ue to their reliance on [Thomas] as [v]ice [p]resident, [t]reasurer[,] and [s]ecretary of PLS, [PLS and Mark] have lost significant sums of money and incurred costs and attorney's [*sic*] fees."

¶ 12 Following a hearing, at which the parties argued their positions at length, the trial court entered an order compelling PLS and Mark to produce such records in their possession or control as were responsive to request Nos. 15, 16, and 18. Addressing Mark's concerns about the disclosure of private information, the court expressed its willingness to enter a protective order

providing that the records were to remain in the custody of the attorneys and be used solely for purposes of the pending litigation.

¶ 13 PLS and Mark moved to reconsider the trial court's order. The court denied the motion but subsequently entered a protective order limiting the use and disclosure of documents designated " 'Confidential' " by the party producing them.

¶ 14 On September 30, 2025, Thomas filed a petition for a rule to show cause, seeking to hold PLS and Mark in contempt for failing to comply with the court's order compelling production of documents responsive to request Nos. 15, 16, and 18. At the hearing on the petition, PLS and Mark did not dispute that they had not complied with the document request at issue and asked to be found in "friendly" contempt to facilitate appellate review of the underlying order to compel. On December 2, 2025, the trial court entered an order finding PLS and Mark in indirect civil contempt, imposing sanctions of $50 per month until they complied with the order to compel, and awarding Thomas his attorney fees for the petition for a rule to show cause and the proceedings thereon. PLS and Mark filed a timely notice of appeal.

¶ 15 II. ANALYSIS

¶ 16 PLS and Mark argue on appeal that the trial court erred in compelling them to produce documents responsive to Thomas's request Nos. 15, 16, and 18. We initially note that orders resolving discovery disputes are not themselves final orders from which an appeal may be taken. *Carlson v. Jerousek*, 2016 IL App (2d) 151248, ¶ 24. However, a party may appeal from a finding of contempt imposing a monetary or other penalty. Ill. S. Ct. R. 304(b)(5) (eff. Mar. 8, 2016). When, as here, a party appeals from a finding of contempt stemming from the party's failure to comply with a discovery order, the reviewing court may consider whether the trial court erred in entering the underlying discovery order. *Carlson*, 2016 IL App (2d) 151248 ¶ 24.

¶ 17 Illinois Supreme Court Rule 201(b)(1) (eff. Mar. 17, 2023) provides, as a general rule, that "a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action *** including the existence, description, nature, custody, condition, and location of any documents[.]" It is well established that "[g]reat latitude is allowed in the scope of discovery, and the concept of relevance is broader for discovery purposes than for purposes of the admission of evidence at trial, since it includes not only what is admissible at trial, but also that which leads to what is admissible." *Crnkovich v. Almeida*, 261 Ill. App. 3d 997, 999 (1994). Furthermore, as the term "discovery" implies, the propriety of a discovery request does not depend on foreknowledge of what the requested material will reveal. So long as a request is reasonably calculated to lead to the discovery of relevant evidence, that request comports with Rule 201(b). See *Willeford v. Toys "R" Us-Delaware, Inc.*, 385 Ill. App. 3d 265, 266, 276 (2008) (names and addresses of individuals who, like the plaintiff, had been injured by falling merchandise in one of the stores of the retailer defendant, were discoverable in personal injury lawsuit because "[w]hile it is not certain that the plaintiff will find evidence of a pattern [of similar incidents] by contacting these people, the discovery request is reasonably calculated to lead to that evidence").

¶ 18 Relevance is not the sole consideration in determining the permissible scope of discovery. Courts also consider the "proportionality" of a discovery request. See Ill. S. Ct. R. 201(c)(3) (eff. Mar. 17, 2023). "[E]ven if it is relevant, information need not be produced if the benefits of producing it do not outweigh the burdens." *Carlson*, 2016 IL App (2d) 151248, ¶ 39. In assessing the proportionality of a discovery request, courts consider the expense of the proposed discovery, the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues. *Id.* ¶ 40. If appropriate to

prevent abusive or unduly burdensome discovery practices, "[t]he [trial] court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression." Ill. S. Ct. R. 201(c)(1) (eff. Mar. 17, 2023). Our state constitution's protection against *unreasonable* invasions of privacy (Ill. Const. 1970, art. I, § 6) also applies to compelled disclosure in civil cases. See *Kunkel v. Walton*, 179 Ill. 2d 519, 537 (1997). "In the context of civil discovery, reasonableness is a function of relevance." *Id.* at 538.

¶ 19 Resolution of discovery disputes is entrusted to the trial court, which is vested with considerable discretion. *Findlay v. Chicago Title Insurance Co.*, 2022 IL App (1st) 210889, ¶ 113. Thus, we review rulings on matters pertaining to discovery for an abuse of discretion. *Id.* A ruling represents an abuse of discretion when it is "arbitrary, fanciful, or unreasonable, or where no reasonable person would adopt the court's view." *Id.*

¶ 20 With these principles in mind, we address request Nos. 15, 16, and 18. We first consider whether the material sought in request No. 15—"statements for any checking account, savings account, money market, or other deposit account, of which [Mark] is a legal or equitable owner, from January 1, 2018, to the present"—is relevant to the matters in dispute. Mark's opening brief focuses on whether those statements have any bearing on the countercomplaint's allegation that "[d]ue to their reliance on [Thomas] as [v]ice [p]resident, [t]reasurer[,] and [s]ecretary of PLS, [PLS and Mark] have lost significant sums of money and incurred costs and attorney's [*sic*] fees" because of Thomas's misuse of PLS's bank accounts and credit cards. As noted, during the proceedings below, Thomas cited this allegation, arguing that it put Mark's income in issue, thereby making Mark's personal financial records relevant for purposes of discovery. Mark,

however, contends that the foregoing allegation references not "loss of 'income' by Mark" but, rather, "the sums of money that PLS and Mark alleged PLS lost due to [Thomas's] use of PLS's business bank accounts and credit cards to pay for personal expenses as alleged in [the] [c]ounter-[c]laims." We agree; sums lost due to Thomas's improper use of company funds do not equate to lost "income" for Mark.

¶ 21 *Baime*, 112 Ill. App. 3d 664, does not persuade us that the allegation in question supports request No. 15. As he did below, Thomas asserts that *Baime* stands for the proposition that "[w]here a question of a party's income is at issue (including but not limited to payment from or losses occasioned by a business operation), that party's tax returns are relevant and discoverable." Thomas untenably stretches *Baime's* fact-specific holding. In *Baime*, a borrower sought damages from a lender that allegedly failed to advance the agreed amount of a loan, forcing the borrower to liquidate assets to meet personal obligations. *Id.* at 665, 669. In that setting, the *Baime* court held that the borrower's income tax returns were discoverable because they "would show the amount of income [the borrower] received in the years when he claimed to have lost money, and the amount of gain or loss he may have incurred from alleged liquidations." *Id.* at 669-70. *Baime*'s reasoning simply does not apply here. Specifically, the allegation in question did not assert that Mark had to liquidate any of his *personal* assets in response to Thomas's misuse of PLS's bank accounts and credit cards. Therefore, the allegation in question does not justify forcing Mark to produce his personal financial records.

¶ 22 That said, however, Mark's personal bank statements (request No. 15) and credit card statements (request No. 16) for periods following Thomas's removal as an officer of PLS are relevant to the countercomplaint's allegation that, after his removal, Thomas engaged in conduct that forced both "PLS *and MARK* *** to spend *** money" (emphasis added) to purchase a new

business network and e-mail server and to rebuild its database of business information. Here the allegation is, *inter alia*, that Mark himself spent money. Furthermore, as Thomas alternatively argues, Mark's tax and financial records (request Nos. 15, 16, and 18) for the period following Thomas's removal from the positions of vice president, treasurer, and secretary, are relevant to the allegations of Thomas's complaint that, while under Mark's control, PLS "paid [Mark] salary, wages, or *personal expenses in lieu of salary or wages*." (Emphasis added.)

¶ 23 We do not read the allegation that PLS paid Mark's personal expenses as necessarily limited to *direct* payments to third parties; it also potentially encompasses payments from PLS funneled through Mark's personal accounts. Mark's checking account statements might show that amounts withdrawn from PLS's corporate accounts coincide with personal expenditures or debt payments. Furthermore, we see no reason why Thomas should not have access to Mark's personal credit card statements to look for patterns matching draws from PLS's accounts. Likewise, a comparison of PLS's financial records and Mark's income tax returns could reveal discrepancies in how Mark reported receipts from PLS, bearing on the overarching question of whether Mark violated his duty of loyalty to Thomas, who held a minority interest in PLS.[1] See *United States v. Bhagavan*, 116

[1]During the hearing on the motion to compel, Mark argued, in effect, that sums he received as or in lieu of salary or wages would appear on PLS's tax forms, specifically Form 1120-S, Schedule K-1, making disclosure of Mark's tax returns redundant. He reprised this argument in his motion to reconsider, asserting that "[i]f there were any monies taken from PLS and used by MARK ***, there would be evidence that that [*sic*] in *** MARK's K-1 financial records." Subchapter S corporations use Form 1120-S, Schedule K-1 with the Internal Revenue Service to report an individual shareholder's respective share of the corporation's income, deductions, or credits. See I.R.S. Instructions for Form 1120-S, Schedule K-1 (2024), https://www.irs.gov/pub/irs-prior/i1120ssk--2024.pdf [https://perma.cc/UNR5-GW53] (last visited

F.3d 189, 193 (7th Cir. 1997) ("Under hornbook corporate law, [the defendant's] position as majority shareholder and president brought with it fiduciary duties to act in the interests of the minority shareholders."). There is, of course, no guarantee that these areas of inquiry will be fruitful. Nonetheless, they are at least reasonably calculated to lead to the discovery of relevant evidence. We thus conclude that, when limited to the period after Mark removed Thomas as an officer of PLS, the requested documents meet the standard of relevance.

¶ 24 We next consider the proportionality of Thomas's request. Mark argues that the scope of the requests is too broad because it conceivably embraces a wide array of financial records. According to Mark, "the term '[other] deposit account' *could* include any retirement 401(k), IRA, pension plan, stock/investment account, health savings accounts, 529 college savings account, life insurance account, or any other financial account that money can be deposited into." (Emphasis added.) However, it is questionable at best whether, in common usage, the term "deposit accounts" includes those types of accounts. Mark cites no cases in which "deposit account" has been interpreted that broadly. On the other hand, Black's Law Dictionary (12th ed. 2024) defines "deposit account" in accordance with section 9-102(a)(29) of the Uniform Commercial Code (U.C.C. § 9-102(29) (2022)) as "[a] demand, time, savings, passbook, or similar account maintained with a bank, savings-and-loan association, credit union, or like organization, other than investment property or an account evidenced by an instrument." See also 810 ILCS 5/9-102(a)(29) (West 2022) (" 'Deposit account' means a demand, time, savings, passbook, nonnegotiable certificates of deposit, uncertificated certificates of deposit, nontransferable certificates of deposit,

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Aug. 3, 2026). From our review of the form, it does not appear that amounts received as or in lieu of salary or wages would be reported. See I.R.S. Form 1120-S, Schedule K-1 (2024) https://www.irs.gov/pub/irs-prior/f1120ssk--2024.pdf [https://perma.cc/86V9-TQCD] (last visited Aug. 3, 2026).

or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument."). In any event, even if "other deposit account" is given the broad reading that Mark suggests, it is unclear whether Mark actually has any of the types of accounts he describes. Thus, the burden remains largely hypothetical. Mark does not suggest that there was any informal attempt by the parties to define the scope of Thomas's request for statements for "other deposit account[s]." Nor did Mark argue in the trial court that the term "other deposit account" was vague or that, based on the nature of his actual financial holdings, compliance would be burdensome.

¶ 25 We also find no meaningful parallel between the scope of the documents sought here and scope of the request in *Carlson* (which Mark cites as controlling authority), where the trial court compelled a personal injury plaintiff to make all of the data on several personal computers available for an examination by an expert (presumably retained by the defendants), subject to a protective order governing the defendants' access to the data. *Carlson*, 2016 IL App (2d) 151248, ¶¶ 16-17. We found an abuse of discretion, reasoning as follows:

> "The potential utility of the discovery sought by the defendants must be weighed against the burden imposed by the discovery method the defendants have requested. Forensic imaging of all of the contents of [the plaintiff's] computers will yield an enormous amount of data that goes far beyond the issues that are relevant to this suit, potentially including personal photographs, declarations of love, bank records and other financial information, records of online purchases, confidential information about family and friends contained in communications with them, and private online activities utterly unconnected to this suit. A request to search the forensic image of a computer is like asking to search the entire contents of a house merely because some items in the house might be relevant. Because

such a search is not narrowly restricted to yield only relevant information, it poses a high risk of being overbroad and intrusive in a manner that violates the constitutional right to privacy. [Citations.] The low probative value of the information being sought does not justify a broad and intrusive method of obtaining that information that is likely to sweep in substantial amounts of irrelevant information." *Id.* ¶ 65.

¶ 26 Here, Mark's financial transactions with PLS—what funds he received and what he used them for—are directly at issue. Furthermore, as we observed in *Carlson*, "because of the enormous storage capacity of most computers, the search of a computer can reveal *** 'a digital record of nearly every aspect of [the users'] lives—from the mundane to the intimate.' " *Id.* ¶ 45 (quoting *Riley v. California*, 573 U.S. 373, 395 (2014)). The same cannot be said of the documents requested here.

¶ 27 We likewise reject PLS and Mark's argument that compelling production of account statements and tax returns violates his right to privacy and, where the documents pertain to his wife's financial affairs, her right to privacy as well. The right to privacy does not protect information that meets the standard of relevance applicable to discovery requests when such information is placed at issue by the pleadings.

¶ 28 Finally, we note that PLS and Mark argue that the trial court should have ordered discovery conducted in phases, with Thomas having access to Mark's personal financial information only if still necessary after examining PLS's records. However, because they cite no authority in support of the argument, it is forfeited. See *In re Marriage of Gabriel*, 2020 IL App (1st) 182710, ¶ 74.

¶ 29 In summary, we conclude that the document requests were proper with respect to documents pertaining to the period beginning when Thomas was removed from the positions of vice president, treasurer, and secretary of PLS. However, the trial court abused its discretion in

ordering production of documents related to the period before Thomas's removal from those positions. We therefore vacate the finding of indirect civil contempt. On remand, PLS and Mark shall not be required to produce documents responsive to the requests at issue in this appeal unless the documents pertain to the period beginning with Thomas's removal from his position as an officer of PLS.

¶ 30 III. CONCLUSION

¶ 31 For the reasons stated, we vacate the order of the circuit court of De Kalb County finding PLS and Mark in indirect civil contempt.

¶ 32 Order vacated.

¶ 33 Remanded with directions.